

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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CHARMANE SMITH,

Plaintiff,

v.

CITIBANK, N.A.,

Defendants.

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No. 2:19-cv-2485-TLP-tmp

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

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The Magistrate Court issued a Report and Recommendation (“R&R”) recommending that the Court deny Plaintiff’s motion to proceed in forma pauperis and motion for service by the U.S. Marshal. (ECF No. 8.) It also recommended that, if the Court chooses to enter an order adopting the R&R, Plaintiff should have to pay the \$400 civil filing fee within 14 days of the order’s entry. (*Id.*) Plaintiff did not object to the R&R. For the reasons below, the Court ADOPTS the R&R. The Court therefore DENIES Plaintiff’s motion to proceed in forma pauperis and motion for service by the U.S. Marshal, and it DIRECTS Plaintiff to pay the filing fee if she wishes to proceed with this action.

**BACKGROUND AND ANALYSIS**

Plaintiff began this action in the Western District of Texas. (ECF No. 1) Without ruling on the merits of Plaintiff’s pleadings, the Western District of Texas entered an order noting that “[t]his action could have been brought in the Western District of Tennessee, where the events or omissions giving rise to [Plaintiff’s] claims allegedly occurred.” (ECF No. 4.) It also noted that

there is “no connection between this litigation and the Western District of Texas, apart from [Plaintiff’s] conclusory allegation that Citibank’s Director of Operations Support and Client Services is located in San Antonio.” (*Id.*) Accordingly, the Western District of Texas ordered the case’s transfer to this district.

On arrival, this Court referred this case to the Magistrate Court under Administrative Order 2013-05. The Court then evaluated the merits of Plaintiff’s motion to proceed in forma pauperis and motion for service by the U.S. Marshal. (ECF No. 8.) The Magistrate Court issued the R&R addressing those issues. (*Id.*)

According to the R&R, “[t]his court has previously noted that [Plaintiff] is a ‘frequent filer of patently meritless lawsuits’ who demonstrates a ‘marked propensity to abuse the judicial system in an attempt to harass the defendants as well as the court.’” (*Id.* at PageID 4.) (citing *Smith v. Dell, Inc.*, No. 2:06-cv-2496-JDB-dkv, ECF No. 4, at 8–9 (W.D. Tenn. Jan. 24, 2007)). The R&R notes that “Judge J. Daniel Breen ordered that [Plaintiff] ‘may not commence any action in this district without paying the full civil filing fee.’” (*Id.* at PageID 4-5) (citing *Smith* at 10). It also notes that “Judge Breen’s order likewise applies to ‘any action that is filed in another district and transferred to this district.’” (*Id.*) (citing *Smith*, No. 2:06-cv-2496-JDB-dkv, at 10-11).

Based on the directives in *Smith*, the Magistrate Court “recommended that Smith’s motion for leave to proceed in forma pauperis and motion for service by the U.S. Marshal be denied with prejudice and that, should the presiding District Judge adopt this recommendation, [Plaintiff] be required to pay the full \$400.00 civil filing fee within fourteen (14) days from that order.” (*Id.*) Plaintiff did not object to the R&R.

Having reviewed the R&R, the Court finds that it must bind itself to the 2007 order entered by Judge Breen, which requires Plaintiff to pay the civil filing fee if she wishes to proceed with the lawsuits she files. Plaintiff has known about the cost of filing lawsuits in this district for some 12 years. The Court thus finds that the R&R's reasoning is well-taken.

### **CONCLUSION**

For the reasons above, the Court ADOPTS the R&R. The Court thus DENIES Plaintiff's motion to proceed in forma pauperis and motion for service by the U.S. Marshal, and it DIRECTS Plaintiff to pay the \$400 civil filing fee if she wishes to pursue this litigation.

**SO ORDERED**, this 19th day of September, 2019.

s/Thomas L. Parker  
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THOMAS L. PARKER  
UNITED STATES DISTRICT JUDGE